IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MACROPOINT, LLC, Plaintiff, v. SALEBUG.COM, LLC and PEGASUS TRANSTECH CORPORATION, Defendants.	))))))))))))))	 Civil Action No. 1:14-cv-00312-JG **JURY TRIAL DEMANDED**
SALEBUG.COM, LLC Counter-Plaintiff, v. MACROPOINT, LLC and BENNETT ADELSON Counter-Defendants	)))))))))))))	 Civil Action No. 1:14-cv-00312-JG **JURY TRIAL DEMANDED**

Defendant Salebug.com, LLC ("Salebug.com"), by and through its undersigned counsel, hereby responds to the Original Complaint ("Complaint") filed by Plaintiff MacroPoint LLC. ("MacroPoint" or "Plaintiff") and denies all allegations of the Complaint that are not expressly admitted herein as follows:

1. This is an action for injunctive and monetary relief to recover for the

damage caused by and to prevent further damage arising from the unlawful and unauthorized use of MacroPoint's intellectual property through the infringement of MacroPoint's patent rights under 35 U.S.C. § 271 by Defendants. Specifically, MacroPoint complains and avers that Defendants infringe claims of United States Letters Patent No. 8,604,943, entitled, "Systems and Methods for Monitoring Location of Freight Carried by a Vehicle" (the "'943 Patent").

ANSWER: Salebug.com admits this is an action for alleged patent infringement of U.S. Patent No. 8,604,943 seeking injunctive and monetary relief, but Salebug.com denies every remaining allegations of this Paragraph.

PARTIES

2. MacroPoint is a limited liability company organized and existing under the laws of the State of Ohio, with a principal place of business at 6050 Oak Tree Boulevard, Suite 150, Cleveland, OH 44131. MacroPoint is a software and application developer that provides cellular phone based solutions for operations such as location tracking, mobile communication, order updates, work activity updates, on-board diagnostic reporting, and text messaging. MacroPoint is the owner of the '943 Patent.

ANSWER: Salebug.com admits MacroPoint purports to be a developer for cellular phone based location software and applications with a place of business in Cleveland Ohio, but Salebug.com is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations of this Paragraph, and therefore denies the remaining allegations of this Paragraph.

3. Upon information and belief, Defendant Salebug.com is a limited liability company existing under the laws of the Commonwealth of Virginia with a principal place of

business at 5930 A Harbour Park Drive, Midlothian, VA 23112.

ANSWER: Salebug.com admits that its address as noted in its Articles of Organization is 5930 A Harbour Park Drive, Midlothian VA 23112. Salebug.com further admits that when Salebug.com filed for its Business License with the county and Federal EIN#, the address was recorded as 5930 Harbour Park Drive, Midlothian VA 23112. Salebug.com's postal address is 5930 A Harbour Park Drive, Midlothian VA 23112. Salebug.com denies any remaining averments of this Paragraph.

4. Upon information and belief, Defendant Salebug.com holds itself out to be Salebug, LLC, which has an address at P.O. Box 3309, Reston, VA 20195; however, further upon information and belief, Salebug, LLC is a trade name or fictitious business name through which Salebug.com does business, and Salebug.com and Salebug, LLC are one and the same.

ANSWER: Salebug.com admits the allegations of this Paragraph.

5. Upon information and belief, Defendant Pegasus is a corporation existing under the laws of the State of Florida with a principal place of business at 4010 Boy Scout Boulevard, Suite 300, Tampa, FL 33607.

ANSWER: These allegations are not directed at Defendant Salebug. To the extent a response is necessary, Salebug.com admits Pegasus is a corporation with a place of business in Florida, but Salebug.com is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this Paragraph, and therefore denies the remaining allegations of this Paragraph.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this controversy concerning patent infringement pursuant to Title 35 U.S.C. § 271 and § 281 and Title 28 U.S.C. § 1331 and §

1338(a).

ANSWER: Salebug.com admits the Complaint purports to assert an action for patent infringement pursuant to Title 35, §§ 271 and 281 of the United States Code, and that the Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a), but denies any remaining allegations of this Paragraph.

7. This Court has specific personal jurisdiction over Defendant Salebug.com because, among other things, Salebug.com has sold and continues to offer to sell products and services that infringe the ’943 Patent in Ohio through publicly available websites and online retailers. This Court has specific personal jurisdiction over Defendant Pegasus because, among other things, Pegasus directs its customers to download products and use services that infringe the ’943 Patent in Ohio.

ANSWER: Salebug.com admits that it sells products and services within the State of Ohio, and that it is subject to personal jurisdiction in this district for purposes of this action. Salebug.com denies that it sells products or services that infringe any valid claim of the ’943 patent. Salebug.com is without knowledge or information sufficient to form a belief as to allegations concerning Defendant Pegasus and therefore denies any such allegations. Salebug.com denies any remaining allegations of this Paragraph.

8. This Court has general personal jurisdiction over all the Defendants because, among other things, on information and belief, each Defendant regularly solicits and transacts business in Ohio and in this judicial district, each Defendant engages in a persistent course of conducting business in Ohio, and each Defendant derives substantial revenue from goods and services sold in Ohio and this judicial district.

ANSWER: Salebug.com admits that it sells products and services within the State of

Ohio and in this judicial district, and that it is subject to personal jurisdiction in this district for purposes of this action. Salebug.com denies that this Court has general personal jurisdiction over Salebug.com. Salebug.com is without knowledge or information sufficient to form a belief as to any remaining allegations and therefore denies any remaining allegations of this Paragraph.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

ANSWER: Salebug.com admits that venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) but denies any remaining allegations of this Paragraph.

RELEVANT FACTS

10. MacroPoint is the owner of the ’943 Patent, which was duly and lawfully issued on December 10, 2013, to Bennett H. Adelson as the inventor. A true and correct copy of the ’943 Patent is attached hereto as Exhibit A. MacroPoint is the owner of all right, title and interest in the ’943 Patent, including the right to sue and recover damages for infringement of the ’943 Patent and obtain a preliminary or permanent injunction..

ANSWER: Salebug.com admits that, on its face, the ’943 patent indicates that it issued on December 10, 2013 to Bennett H. Adelson. Salebug.com admits that a document purporting to be a copy of the ’943 patent is attached to the Complaint as Exhibit A. Salebug.com is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this Paragraph, and therefore denies the remaining allegations of this Paragraph.

11. MacroPoint designs, develops, markets, and sells software products and services that facilitate location tracking and management of freight in transit.

ANSWER: Salebug.com admits Macropoint purports to develop and sell software products relating to location tracking. Salebug.com is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this Paragraph, and therefore denies the remaining allegations of this Paragraph.

12. Salebug.com develops, produces, offers for sale or sells software products and services that directly infringe, or that contribute to or induce infringement of one or more claims of the ’943 Patent. Pegasus offers for sale, sells, or instructs its customers to procure software products and use services that directly infringe, or that contribute to or induce infringement of one or more claims of the ’943 Patent. The infringing products and services include a “Trucker Tools” application (referred to herein “Trucker Tools App”) designed for use with a cellular telephone, computing tablet device, or other similar mobile computing device and a “TRANSFLO Load Track” application (referred to herein as “TRANSFLO Load Track App”) designed for use by a computer, computing tablet device, internet-enabled mobile phone, or other similar computing devices..

ANSWER: Salebug.com admits that it developed software applications known as “Trucker Tools” and “TRANSFLO Load Track” for use with cellular phones, tablets, or other similar mobile devices, and that such applications have been sold and offered for sale by Pegasus pursuant to an agreement with Pegasus. Salebug.com denies the remaining allegations of this Paragraph.

13. Salebug.com offers for sale the Trucker Tools App and TRANSFLO Load Track App through its website www.truckertools.com, which includes a copyright notice reserving all right for “Salebug LLC.” The homepage of the www.truckertools.com website directs visitors to one of two online marketplaces—“Google play” application store and “Apple iTunes” application store—to procure the Trucker Tools App. A true and correct copy of the www.truckertools.com homepage is attached as Exhibit B. One of the webpages of the

www.truckertools.com website, found at www.truckertools.com/loadtrack/home/, provides direct access to the TRANSFLO Load Track App. A true and correct copy of the www.truckertools.com/loadtrack/home/ webpage is attached as Exhibit C.

ANSWER: Salebug.com admits that Trucker Tools App and TRANSFLO Load Track have been advertised for sale at www.truckertools.com/loadtrack/home/ and that the website www.truckertools.com included a copyright notice for "Salebug LLC." Salebug.com also admits that the homepage of www.truckertools.com directed visitors to the "Google play" application store and/or "Apple iTunes" application to procure the Trucker Tools App. Salebug.com denies the remaining allegations of this Paragraph.

14. Salebug.com further offers for sale and sells the Trucker Tools App at the online Google play application store and Apple iTunes application store. The online Google play application store states that the Trucker Tools App is sold by "Salebug.com." A true and correct copy of the Google play application store webpage for the Trucker Tools App is attached as Exhibit D. The online Apple iTunes application store states that the Trucker Tools App is sold by "Salebug.com, LLC." A true and correct copy of the Apple iTunes application store webpage forth Trucker Tools App is attached as Exhibit E.

ANSWER: Salebug.com admits that it developed software applications known as "Trucker Tools" and "TRANSFLO Load Track" for use with cellular phones, tablets, or other similar mobile devices, and that such applications have been sold and offered for sale by Pegasus pursuant to an agreement with Pegasus. Salebug.com denies the remaining allegations of this Paragraph.

15. Pegasus directs its customers and clients to procure the Trucker Tools App and the TRANSFLO Load Track App through its website www.pegasustranstech.com. One of the

webpages of Pegasus''s website, found at www.pegasustranstech.com/load-track, directs visitors to one of two online marketplaces—"Google play" application store and "Apple iTunes" application store—to procure the Trucker Tools App. A true and correct copy of the www.pegasustranstech.com/load-track webpage is attached as Exhibit F. Further, one of the webpages of Pegasus's website, found at www.pegasustranstech.com/pegasus-transtechintroduces-transflo-load-track, states that Pegasus integrates the TRANSFLO Load Track App into its own "TRANSFLO Mobile" application. A true and correct copy of the www.pegasustranstech.com/pegasus-transtech-introduces-transflo-load-track attached as Exhibit G.

ANSWER: Salebug.com admits that it developed software applications known as "Trucker Tools" and "TRANSFLO Load Track" for use with cellular phones, tablets, or other similar mobile devices, and that such applications have been sold and offered for sale by Pegasus pursuant to an with Pegasus. Salebug.com admits that TRANSFLO Load Track App was integrated into the TRANSFLO Mobile application. Salebug.com admits Exhibit F appears to be a copy of the www.pegasustranstech.com/load-track webpage that was once used, and that Exhibit G appears to be a copy the www.pegasustranstech.com/pegasus-transtech-introduces-transflo-load-track webpage that was once used. Salebug.com denies the remaining allegations of this Paragraph.

COUNT I

(Alleged Infringement of the '943 Patent)

16. MacroPoint incorporates by reference the allegations set forth in Paragraphs 1-15 of this Complaint as though fully set forth herein.

ANSWER: Salebug.com incorporates and restates its responses to paragraphs 1-15.

17. By making, using, offering to sell, selling, and/or directing others to procure and/or use the Trucker Tools App and the TRANSFLO Load Track App in the United States, each Defendant has and continues to directly and/or indirectly infringe one or more claims of the ’943 Patent, in violation of 35 U.S.C. § 271.

ANSWER: Salebug.com denies the allegations of this Paragraph.

18. Defendants will continue to infringe the ’943 Patent unless enjoined by this Court.

ANSWER: Salebug.com denies the allegations of this Paragraph.

19. The harm to MacroPoint within this judicial district and elsewhere in the United States resulting from the Defendants' infringement of the ’943 Patent set forth above is irreparable, continuing, and not fully compensable by money damages.

ANSWER: Salebug.com denies the allegations of this Paragraph.

20. On information and belief, the Defendants have profited and will continue to profit by their infringing activities. MacroPoint has been damaged by Defendants’ infringing activities. The amount of monetary damages that MacroPoint has suffered by Defendants’ infringing acts set forth above cannot be determined without an accounting.

ANSWER: Salebug.com denies the allegations of this Paragraph.

RESPONSE TO PLAINTIFF’S PRAYER FOR RELIEF

Salebug.com denies that MacroPoint is entitled to any relief whatsoever in this action, either as prayed for in the Complaint or otherwise.

AFFIRMATIVE DEFENSES

Salebug.com, reserving the right to assert additional affirmative defenses, asserts the following affirmative defenses.

FIRST AFFIRMATIVE DEFENSE

Salebug.com does not infringe any valid claim of the ’943 patent literally, under the doctrine of equivalents, directly, indirectly, contributorily, by way of inducement, and/or via any other mechanism of liability under the Patent Act.

SECOND AFFIRMATIVE DEFENSE

Each of the claims of the ’943 patent is invalid for failure to comply with one or more of the provisions of 35 U.S.C. §§ 101, 102, 103, and/or 112.

THIRD AFFIRMATIVE DEFENSE

MacroPoint’s claims for relief are barred in whole or in part by prosecution history estoppel and/or prosecution history disclaimer.

COUNTERCLAIMS

Salebug.com, LLC (“Salebug.com”), by and through its undersigned counsel, as and for its Counterclaims against MacroPoint Corporation (“MacroPoint”) and Bennett Adelson (who is added as a party pursuant to Federal Rule of Civil Procedure 13(h) and 20), respectfully shows and alleges as follows:

1. This is an action for injunctive and monetary relief to recover for the damage caused by, and to prevent further damage arising from, the tortious interference of MacroPoint and Bennett Adelson with the contract and relationship between Salebug.com and Pegasus Transtech Corporation (“Pegasus”).

THE PARTIES

2. Counterclaimant Salebug.com is a limited liability company existing under the laws of the Commonwealth of Virginia with a principal place of business at 5930 A Harbour Park Drive, Midlothian, VA 23112.

3. Based on MacroPoint's assertion in its Complaint, Salebug.com alleges on information and belief that MacroPoint is an Ohio corporation with its principal place of business at 6050 Oak Tree Boulevard, Suite 150, Cleveland, Ohio, 44131.

4. On information and belief, Counter-Defendant Bennett Adelson resides in and is domiciled in, Ohio, and is the CEO of MacroPoint.

5. Pegasus is a corporation existing under the laws of the State of Florida with a principal place of business at 4010 Boy Scout Boulevard, Suite 300, Tampa, FL 33607.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1367, 1338(a) and 35 U.S.C. § 271.

7. This Court has general personal jurisdiction over Counter-Defendant MacroPoint because Ohio is MacroPoint's place of incorporation and because Ohio is MacroPoint's principal place of business.

8. This Court has general personal jurisdiction over Counter-Defendant Bennett Adelson because Adelson is domiciled in the state of Ohio.

9. This Court has specific personal jurisdiction over Counter-Defendant MacroPoint because acts of tortious interference by MacroPoint complained of herein took place from within the state of Ohio.

10. This Court has specific personal jurisdiction over Counter-Defendant Bennett

Adelson because acts of tortious interference by Bennett Adelson complained of herein took place from within the state of Ohio.

11. The averments referenced herein regarding Bennett Adelson arise out of the same transaction, occurrence, or series of transactions or occurrences as those set forth herein regarding MacroPoint.

12. Venue is proper in this judicial district under 28 U.S.C. §§ 1391.

RELEVANT FACTS

13. Salebug.com and Pegasus entered into a Value Added Reseller Agreement (the "AGREEMENT") on or about June 13, 2013. Pursuant to the AGREEMENT (A) Pegasus agreed (i) to "use commercially reasonable efforts to market, promote and sell" Salebug.com's Load Track application, and (ii) to "not market or sell another load tracking application" (collectively "SALES & MARKETING REQUIREMENTS").

14. Bennett Adelson and MacroPoint became aware of the sales and marketing relationship ("RELATIONSHIP") between Pegasus and Salebug.com before February 13, 2014.

15. On information and belief Bennett Adelson and MacroPoint became aware of the AGREEMENT between Pegasus and Salebug.com and in general terms of the SALES & MARKETING REQUIREMENTS of such AGREEMENT before February 13, 2014.

16. On February 13, 2014, Bennett Adelson caused MacroPoint to file a complaint (the "COMPLAINT") against Salebug.com and Pegasus in the Northern District of Ohio (case no. 1:14-cv-00312) alleging that Salebug.com and Pegasus were both liable for infringing U.S. Patent No. 8,604,943 (the "'943 patent") in connection with sales of the Salebug.com Load Track application that Pegasus was selling pursuant to the above-referenced AGREEMENT between Salebug.com and Pegasus. However, the COMPLAINT and corresponding summons

were not served on Salebug.com until May 23, 2014.

17. Subsequent to the filing of the COMPLAINT, on information and belief Bennett Adelson and MacroPoint interacted with the CEO for Pegasus on multiple occasions (including via telephone and email from Ohio) with the purpose and intent of attempting to tortiously interfere with the AGREEMENT between Salebug.com and Pegasus, trying to get Pegasus to stop marketing and selling Salebug.com's Load Track application and trying to get Pegasus to market and sell MacroPoint's load tracking product instead, even after Bennett Adelson and MacroPoint became aware of the existence of AGREEMENT and of the fact that pursuant to such AGREEMENT Pegasus was supposed to make commercially reasonable efforts to sell Salebug.com's Load Track application and not sell other load tracking applications.

18. As a result of Bennett Adelson's and MacroPoint's efforts to tortiously interfere with the RELATIONSHIP and AGREEMENT between Pegasus and Salebug.com, Pegasus stopped marketing and selling Salebug.com's Load Track application. On information and belief, Bennett Adelson's and MacroPoint's tortious interference was the but-for cause of Pegasus stopping marketing and selling Salebug.com's Load Track application.

19. Bennett Adelson is the only named inventor listed on the face of the '943 patent.

20. During the period of time that the application for the '943 patent was pending before the United States Patent and Trademark Office ("USPTO") the USPTO's Manual of Patent Examining Procedure ("MPEP") 2001.06 specified that all inventors and their patent prosecution counsel "have a duty to disclose to the U.S. Patent and Trademark Office all material information they are aware of regardless of how they became aware of the information [including] material information from various sources such as, for example, co-workers, trade shows, . . . competitors, potential infringers, or other third parties." MPEP 2001.04 required that

"[i]n addition to prior art such as patent and publications [the duty to disclose] includes, for example, . . . possible prior public uses, sales, offers to sell, derive knowledge, prior invention . . . and the like."

21. Notwithstanding the above-referenced duty of disclosure, on information and belief Bennett Adelson failed to disclose to the USPTO all the material prior art that he was aware of. In its March 5, 2014 correspondence to MacroPoint, Salebug.com stated "the face of the patent indicates that the examiner did not consider even a single non-patent prior art reference [which is] remarkable given the 'overwhelming' number of prior art tracking systems that were publicly available in the market place a year before the filing date of the '943 patent." (See letter attached hereto as Exhibit 1). Salebug.com's March 5th letter further stated "[t]he inventor of the '943 patent, MacroPoint CEO Bennett H. Adelson, was undoubtedly aware of this 'overwhelming' array of vehicle/fleet/freight/cell phone tracking applications and systems that were available in the marketplace, but he chose not to disclose any of them—even though he (and his patent attorney) owed a duty of candor to the patent office to disclose all such material prior art that they were aware of." Bennett Adelson and MacroPoint did not deny the foregoing in any subsequent interactions with Salebug.com.

22. On March 17, 2014 Salebug.com sent yet another letter to MacroPoint (attached as Exhibit 2) stating "Salebug.com . . . challenges Mr. Adelson to deny that he was aware of the scores of prior art tracking applications that existed in the market place (each of which utilized notice and consent to be tracked) more than a year before Mr. Adelson filed [his patent application]—none of which he disclosed to the examiner who allowed his patent to issue." Bennett Adelson and MacroPoint did not deny the foregoing in any subsequent interactions with Salebug.com.

23. On April 4, 2014 MacroPoint provided a written response to Salebug.com's March 5, 2014 and March 17, 2014 letters, but in this response Bennett Adelson and MacroPoint did not deny the foregoing. Then in its subsequent letter of later that same day (attached as Exhibit 3), Salebug.com stated "Salebug.com . . . notes that Mr. Adelson did not 'deny that he was aware of the scores of prior art tracking applications that existed in the market place (each of which utilized notice and consent to be tracked) more than a year before Mr. Adelson filed his patent application—none of which he disclosed to the Patent and Trademark Office." Again, Bennett Adelson and MacroPoint did not deny the foregoing in any subsequent interactions with Salebug.com.

24. On information and belief, Salebug.com believes that Bennett Adelson and MacroPoint know that material prior art was withheld from the Patent and Trademark Office and know that such calls into question the validity and enforceability of the claims of the '943 patent, but nonetheless decided to assert, and continue to assert, the '943 patent against Salebug.com and Pegasus to further advance Bennett Adelson's and MacroPoint's efforts to tortiously interfere with the AGREEMENT between Salebug.com and Pegasus and the AGREEMENT and SALES & MARKETING REQUIREMENTS of such AGREEMENT.

25. In its March 5th letter, Salebug.com set forth three separate, independent reasons why the accused products could not infringe the '943 patent, and Salebug.com further stated "[p]ursuant to Federal Rule of Civil Procedure 11, MacroPoint is required to have a proper basis for any allegation of patent infringement, and for the reasons referenced above MacroPoint cannot have a proper Rule 11 basis for alleging that the TRANSFLO Load Track or Trucker Tools applications infringe any valid and enforceable claim of the '943 patent. As such, MacroPoint must withdraw its complaint and cease and desist from falsely alleging infringement

allegations against Salebug.com. Additionally, it has come to Salebug.com's attention that MacroPoint is tortiously interfering with the relationship between Salebug.com and Pegasus, through its use of unfounded, improper infringement allegations—for which MacroPoint can be found liable." Bennett Adelson and MacroPoint did not respond to the three reasons Salebug.com gave in its March 5th letter for why there could be no infringement.

26. During subsequent discussions between Bennett Adelson and Salebug.com's CEO, Salebug.com's CEO repeatedly challenged Bennett Adelson and MacroPoint to explain how they could allege Salebug.com and Pegasus were infringing the '943 patent in light of the three separate, independent reasons Salebug.com gave in its March 5th letter as to why there could be no infringement—but Bennett Adelson and MacroPoint were unable to do so.

27. Having received no response to the three nonifringement bases set forth in its March 5th letter, Salebug.com sent a follow up letter to MacroPoint on March 17th setting forth the same three noninfringement bases once again, while further stating "MacroPoint (and MacroPoint's CEO) cannot possibly believe they have a good faith basis for alleging infringement of a valid, enforceable claim for the reasons referenced above and in my letter of March 5th. Indeed, Salebug.com finds it telling that MacroPoint has provided no response to my letter of March 5th. Salebug.com believes MacroPoint has provided no response to my letter of March 5th, because it has no response to my letter of March 5th—i.e., MacroPoint knows they don't infringe. Indeed, Salebug.com challenges MacroPoint to respond specifically to each of the above-reference noninfringement bases (by March 20th), explaining in detail how MacroPoint contends the accused TRANFLO Load Track (and Trucker Tools) applications could possibly infringe any valid, enforceable claim of the '943 patent. Salebug.com believes MacroPoint will provide no such detailed explanation by March 20th, because MacroPoint knows the applications

do not infringe." Bennett Adelson and MacroPoint provided no such detailed explanation by March 20th, and still have not to this day provided any explanation whatsoever (detailed or otherwise) as to how they can allege Salebug.com and Pegasus infringe in light of the three noninfringement bases.

28. In its March 17th letter Salebug.com further stated, "MacroPoint's CEO, Mr. Adelson, has gone far, far beyond baselessly contending the TRANSFLO Load Track infringes, and has engaged in series of interactions with Pegasus clearly designed to actively and tortiously interfere with the existing agreement between Pegasus and Salebug.com. Such is improper, and Salebug.com intends to see Mr. Adelson held personally accountable for every penny that Salebug.com would have made if Mr. Adelson had not tortiously interfered. In short, MacroPoint CEO, Mr. Adelson, is simply using the subterfuge of merit-less infringement allegations in a failed attempt to disguise Mr. Adelson's true purpose—i.e., to tortiously interfere with the agreement that exists between Salebug.com and Pegasus. For this, Mr. Adelson will be held accountable."

29. During subsequent discussions with Salebug.com's CEO, Bennett Adelson and MacroPoint finally agreed to provide a written response to Salebug.com's letters of March 5th and 17th. Then after waiting nearly two weeks for a response to Salebug.com's letters of March 5th and 17th setting forth three reasons why Salebug.com and Pegasus could not be infringing the '943 patent, Salebug.com received a letter from MacroPoint on April 4, 2014 that made no effort to respond in any substantive way to the three reasons Salebug.com had previously given as to why the '943 patent could not be infringed.

30. Later that same day (i.e., April 4th), Salebug.com sent a letter to MacroPoint stating "during conversations that subsequently took place between MacroPoint's CEO and

Salebug.com's CEO, Salebug.com's CEO repeatedly challenged MacroPoint's CEO to respond to the three reasons Salebug.com had given as to why TRANSFLO Load Track could not possibly infringe the '943 patent. Repeatedly, MacroPoint's CEO was unable to do so. MacroPoint's CEO told Salebug.com's CEO that MacroPoint's attorneys would respond to Salebug.com's letters. Now, after patiently waiting for nearly two weeks to receive the promised response from MacroPoint's attorneys, Salebug.com receives the attached (insulting) letter which tellingly does not address any of the three reasons why TRANSFLO Load Track cannot infringe. If MacroPoint had any colorable reason to believe Salebug.com's noninfringement bases were lacking in any respect, MacroPoint would have set forth such reasoning in its letter. MacroPoint's failure/inability to do so speaks volumes. The conclusion is inescapable—TRANSFLO Load Track does not infringe and MacroPoint's attorneys know it."

31. On April 30, 2014, Salebug.com's CEO sent an email message to MacroPoint's CEO, Bennett Adelson, to alert him of the recent Supreme Court decision that lowers the standard for recovery of attorney's fees in frivolous and/or baseless patent litigations. In this email, Salebug.com's CEO reminded Mr. Adelson that despite repeated requests from Salebug.com, Mr. Adelson and MacroPoint had never addressed Salebug.com's bases for noninfringement of the '943 patent. Mr. Adelson did not respond until a week later, on May 7, 2014. In his cursory response Mr. Adelson stated, untruthfully, that he had addressed Salebug.com's noninfringement bases "many times."

32. That same day, May 7, 2014, Salebug.com's CEO responded to Mr. Adelson, challenging the veracity of Mr. Adelson's statement that he had addressed Salebug.com's noninfringement bases "many times." Salebug.com's CEO further challenged Mr. Adelson to identify the dates and times on which he and/or MacroPoint had allegedly addressed

Salebug.com's three separate noninfringement bases. To date, neither Mr. Adelson or anyone representing MacroPoint has provided such a response.

FIRST COUNTERCLAIM

Tortious Interference

33. Salebug.com realleges and incorporates each of the allegations contained in paragraphs 1-32 of its Counterclaims as if fully set forth herein.

34. There was a contract (the AGREEMENT) between Salebug.com and Pegasus.

35. Bennett Adelson and MacroPoint had knowledge of such contract.

36. Bennett Adelson and MacroPoint had multiple interactions with Pegasus (via both telephone and email), and during such interactions Bennett Adelson and MacroPoint tried to get Pegasus to stop marketing and selling Salebug.com's Load Track application even though Bennett Adelson and MacroPoint were aware of the AGREEMENT between Salebug.com and Pegasus pursuant to which Pegasus was selling Salebug.com's Load Track application.

37. Bennett Adelson and MacroPoint intentionally and improperly tortiously interfered—without justification—with the AGREEMENT between Salebug.com and Pegasus via multiple teleconferences and emails from Bennett Adelson and MacroPoint in Ohio to the CEO for Pegasus trying to get Pegasus not to sell the Load Track application contrary to the terms of the AGREEMENT—i.e., tortious conduct designed to tortiously interfere with the AGREEMENT in addition to the conduct of filing the COMPLAINT.

38. As a result of the intentional and improper tortious interference by Bennett Adelson and MacroPoint, Pegasus stopped marketing and selling Salebug.com's Load Track application, causing damage to Salebug.com.

39. Bennett Adelson and MacroPoint intentionally and improperly tortiously

interfered with the AGREEMENT between Salebug.com and Pegasus by filing the COMPLAINT on February 13, 2014 against Salebug.com and Pegasus alleging that Salebug.com and Pegasus were both liable for infringing the ’943 patent in connection with sales of the Salebug.com Load Track application that Pegasus was selling pursuant to the AGREEMENT between Salebug.com and Pegasus. This tortious interference was in addition to the tortious interference referenced above.

40. The infringement allegations of MacroPoint’s COMPLAINT are objectively baseless, such that no reasonable litigant could realistically expect success on the merits—i.e., no reasonable litigant could realistically expect Salebug.com or Pegasus to be found liable for infringing a valid, enforceable claim of the ’943 patent.

41. On information and belief, the infringement allegations of MacroPoint’s COMPLAINT were asserted, and have continued to be asserted, in subjective bad faith by Bennett Adelson and MacroPoint—i.e., Bennett Adelson and MacroPoint asserted, and have continued to assert, the ’943 patent against Salebug.com and Pegasus knowing that no reasonable litigant could realistically expect Salebug.com or Pegasus to be found liable for infringing a valid, enforceable claim of the ’943 patent (i.e., no reasonable litigant could realistically expect success on the merits); and Bennett Adelson and MacroPoint did so intentionally and without justification in an effort to get Pegasus not to sell Salebug.com’s Load Track application contrary to the AGREEMENT between Salebug.com and Pegasus.

42. As a result of the intentional and improper tortious interference—without justification—by Bennett Adelson and MacroPoint, Pegasus stopped marketing and selling Salebug.com’s Load Track application, causing damage to Salebug.com.

43. On information and belief, Bennett Adelson’s and MacroPoint’s acts of tortious

interference were the but-for cause of Pegasus stopping marketing and selling Salebug.com's Load Track application.

SECOND COUNTERCLAIM

NonInfringement

44. Salebug.com realleges and incorporates each of the allegations contained in paragraphs 1-43 of its Counterclaims as if fully set forth herein.

45. There exists an actual case or controversy between Salebug.com and MacroPoint concerning the alleged infringement of the '943 patent by virtue of the Complaint and Answer and Defenses to the Complaint in this action.

46. Salebug.com has not infringed and does not infringe, literally or under the doctrine of equivalents, any valid claim of the '943 patent.

47. Salebug.com seeks a declaration from this Court that Salebug.com does not infringe any valid claim of the '943 patent.

THIRD COUNTERCLAIM

Invalidity

48. Salebug.com realleges and reincorporates each of the allegations contained in paragraphs 1-47 of its Counterclaims as if fully set forth herein.

49. There exists an actual case or controversy between Salebug.com and MacroPoint concerning the validity of the '943 patent by virtue of the Complaint and Answer and Defenses to the Complaint in this action.

50. Each claim of the '943 patent is invalid for failure to meet one or more of the provisions governing patentability specified in 35 U.S.C. §§ 102, 103, and/or 112.

51. Salebug.com seeks a declaration from this Court that the '943 patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, Salebug.com prays for judgment on the claims of the Complaint and the Counterclaims as follows:

1. Enjoin Counter-Defendants, and their officers, employees, servants, and agents, and all persons in active concert with any of them, against any further acts of tortious interference.

2. Declare that the claims of the ’943 patent are not infringed.

3. Declare that the claims of the ’943 patent are invalid.

4. Dismissal of MacroPoint’s claims with prejudice and order that MacroPoint takes nothing by its claims.

5. Order MacroPoint and Bennett Adelson to pay damages adequate to compensate Salebug.com, together with interest and costs.

6. Order MacroPoint and Bennett Adelson to pay punitive damages.

7. Award Salebug.com its cost and expenses, including attorney fees.

8. Declare this case to be an exceptional case under 35 U.S.C § 285 and order appropriate relief, including payment of Salebug.com’s attorney fees.

9. Find that the proceedings have been multiplied unreasonably and vexatiously in violation of 28 U.S.C. §1927 and order appropriate relief, including payment of Salebug.com’s attorney fees.

10. Granting such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Salebug.com hereby demands a trial by jury on all issues and claims so triable.

DATED this 12th day of June, 2014.

KOVACH & FARLING CO., LPA

/s/ Harold E. Farling

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2014, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send electronic notification of such filing to all registered participants.

KOVACH & FARLING CO., LPA

/s/ Harold E. Farling

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